

Article IX

Operation and Licensing of Vehicles

Article IX

Operation and Licensing of Vehicles

1. The Government of the Federated States of Micronesia shall accept as valid, without a test or fee, the operator's permit or license or military driving permit issued to United States personnel or third country contractor personnel by the Government of the United States, the Governments of the States of the United States of America, its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands.

2. *Official vehicles of the Armed Forces of the United States, vehicles owned or operated by the United States contractors, and privately owned vehicles of United States personnel shall be identified by individual markings or license plates issued by the Government of the United States, the Governments of the States of the United States of America, its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands.*

(a) Official vehicles shall not be subject to the registration or safety inspection laws of the Government of the Federated States of Micronesia.

(b) The Armed Forces of the United States may register vehicles of United States contractors and United States personnel that are not official vehicles, and may inspect such vehicles applying safety standards of general applicability in the Federated States of Micronesia. Vehicles so registered and inspected shall be exempt from the registration and safety inspection laws of the Government of the Federated States of Micronesia.

3. For purposes of this Article the term "vehicles" includes all forms of land, sea and air transportation.

Article X

Relinquishment of Defense Sites

Article X

Relinquishment of Defense Sites

1. If any installations or improvements which were constructed at the expense of the Government of the United States are to be left behind after relinquishment of a defense site or portion thereof, whether at the termination of any agreement provided for in Section 321 or 323 of the Compact, as amended, or at any other date, the Government of the Federated States of Micronesia and the Government of the United States shall consult to determine the residual value, including scrap value, if any, of any such installations or improvements to the Government of the Federated States of Micronesia .
2. The Government of the United States shall take all measures practicable to ensure that every condition substantially or materially hazardous to human life, health and safety resulting from use of defense sites is removed or otherwise made safe. The Governments concerned shall consult as to what constitutes a hazard and how hazards shall be removed or otherwise made safe.
3. The Government of the United States shall have no obligation, upon relinquishment, to restore defense sites to their former condition; however, upon notification of intent to relinquish a defense site or portion thereof, or sooner if mutually agreed, the Government of the United States and the Government of the Federated States of Micronesia shall enter into negotiations with a view to reaching an equitable arrangement for return of lands that takes due account of United States investment, the prospective use to which such lands will be used and the unique importance of land under local custom and law.
4. The Government of the Federated States of Micronesia and the Government of the United States shall commence consultations no later than seven years prior to the termination of the Military Use and Operating Rights Agreement to plan, schedule, and implement the provisions of this Article. The Government of the United States shall either transfer installations, facilities, or improvements to the Government of the Federated States of Micronesia as soon as they are no longer required by the United States, or it will maintain such installations, facilities or improvements in operating condition throughout the period of consultations.

Article XI

Equipment

Article XI

Equipment

The Government of the United States shall retain title to equipment, materials and other moveable property brought into or acquired in the Federated States of Micronesia and may remove such property at any time. In the event the Government of the United States wishes to dispose of such equipment, materials or other moveable property, the Government of the Federated States of Micronesia shall have a right of first refusal to purchase such items, at an agreed upon price, after the Government of the United States has fulfilled its statutory and regulatory responsibilities including first offering such equipment to other agencies of the Government of the United States. Upon notification of intent to relinquish a defense site, or portion thereof, the Government of the United States will enter into negotiations with the Government of the Federated States of Micronesia regarding the disposition of all fixed and movable real property located on the defense site or sites.

Article XII

Criminal Jurisdiction

Article XII

Criminal Jurisdiction

1. Subject to the provisions of this Article:

(a) United States personnel are subject to the criminal jurisdiction of the Government of the Federated States of Micronesia for offenses committed by such personnel in the Federated States of Micronesia.

(b) The Government of the United States has the right to exercise within the Federated States of Micronesia criminal and disciplinary jurisdiction over United States personnel for offenses punishable under the laws of the United States. In lieu of criminal or disciplinary proceedings in the Federated States of Micronesia, the Government of the United States may elect to remove United States personnel for such proceedings elsewhere.

(c) For purposes of asserting jurisdiction under this Article, the determination of a Signatory Government as to whether an offense is punishable under its laws shall be conclusive.

2. The Government of the Federated States of Micronesia has the right to exercise exclusive jurisdiction over United States personnel with respect to offenses committed in the Federated States of Micronesia which are punishable under local law, but not under the laws of the United States applicable to offenses committed outside the territorial jurisdiction of the United States.

3. The Government of the United States has the right to exercise exclusive jurisdiction over United States personnel with respect to offenses committed in the Federated States of Micronesia which are punishable under the laws of the United States applicable to offenses committed outside the territorial jurisdiction of the United States, but not under local law.

4. The Government of the Federated States of Micronesia and the Government of the United States have concurrent jurisdiction over United States personnel with respect to offenses committed in the Federated States of Micronesia which are punishable under both local laws and the laws of the United States applicable to offenses committed outside the territorial jurisdiction of the United States. Whenever it is determined by the Government of the Federated States of Micronesia that an act or omission is a punishable offense under the laws of the Federated States of Micronesia, and it is determined by the Government of the United States that the same act or omission is a punishable offense under the laws of the United States applicable to offenses committed outside the territorial jurisdiction of the United States, the following rules shall apply:

(a) The Government of the Federated States of Micronesia has the primary right to exercise jurisdiction over United States personnel in all other cases of concurrent jurisdiction, except as provided in paragraph 4(b) of this article.

(b) The Government of the United States has the primary right to exercise jurisdiction over United States personnel in the Federated States of Micronesia for:

(1) Offenses committed within defense sites, including non-exclusive-use areas during periods of use by the Government of the United States under applicable military use and operating rights agreements concluded under Sections 321 and 323 of the Compact, as amended;

(2) Offenses against the property or security of the United States, or offenses against the person or property of United States personnel;

(3) Offenses arising out of the performance of official duty;

(4) Offenses committed by United States personnel who are attached to or embarked in aircraft or vessels transiting the Federated States of Micronesia and which are operated by, for, or under the control of the Armed Forces of the United States or United States contractors; and

(5) Any other offense punishable by deprivation of liberty or by a more severe penalty. However, the Government of the Federated States of Micronesia has the primary right of jurisdiction to try any offense that is not a felony under local law and for which the sole penalty which shall be adjudged or imposed, if any, is a fine. The Government of the Federated States of Micronesia shall have the primary right to exercise jurisdiction over any such offense which is not a felony under local law and is subject to a maximum punishment no greater than deprivation of liberty for less than six months.

(c) The Government of the Federated States of Micronesia having the primary right to exercise jurisdiction waives that right, unless it notifies the Government of the United States of its intention to exercise such right as soon as practicably, but within 30 calendar days after notification of the offense by either government.

(d) The Government having the primary right to exercise jurisdiction shall give sympathetic consideration to a request from the other Government concerned for a waiver of such primary right in cases the requesting Government considers to be of particular importance.

(e) The provisions of this article shall be reviewed by the Signatory Governments concerned at anytime on request by one of them in order to determine whether any modification of its provisions may be appropriate in light of circumstances then prevailing.

5. Except for laws officially transmitted in English to the Government of the United States by the Government of the Federated States of Micronesia, ignorance of the laws of the Federated States of Micronesia shall constitute a defense.

6. The Government of the United States and the Government of the Federated States of Micronesia shall assist each other in the arrest or detention of United States personnel in the Federated States of Micronesia.

(a) The Government of the Federated States of Micronesia shall promptly notify the Government of the United States of the arrest or detention of any United States personnel.

(b) Members of the force accused or suspected of the commission of any offense in the Federated States of Micronesia shall remain in or be transferred to the custody of the Government of the United States unless the Government of the United States declines such custody. The Government of the United States shall make available for purposes of investigation or trial members of the force in its custody over whom the Government of the Federated States of Micronesia has the right to exercise jurisdiction pursuant to this Agreement. Upon completion of all judicial proceedings, including appellate proceedings, such personnel shall be transferred to the Government of the Federated States of Micronesia if a sentence providing for deprivation of liberty has been finally adjudged.

(c) The provisions of Title Four of the Agreement on Mutual Assistance in Law Enforcement Matters shall be applicable to United States personnel who are citizens or nationals of the United States.

(d) The Government of the United States may request custody of a prisoner who is a member of the force, deprived of liberty by order of a Court of the Federated States of Micronesia. The Government of the Federated States of Micronesia shall transfer such prisoner to the custody of the Government of the United States which shall provide for the carrying out of the terms of such deprivation of liberty.

7. The Government of the United States and the Government of the Federated States of Micronesia shall assist each other in the carrying out of all necessary investigations into offenses within the scope of this Article, and in the collection and production of evidence, including the seizure and, in proper cases, the handing over of objects connected with an offense. The transfer of such objects may be made subject to their return within the time specified by the Government delivering them.

8. Where a person has been tried in accordance with the provisions of this Article, either by the Government of the United States or the Government of the Federated States of Micronesia, and has been acquitted or convicted, or has been pardoned, he may not be tried again within the same territory for the same offense by either Government. This paragraph is without prejudice to the authority of the Armed Forces of the United States to try a member of the force for any violation of rules of discipline.

9. United States personnel prosecuted under the jurisdiction of the Government of the Federated States of Micronesia shall be entitled to all guarantees and rights provided by the constitution and laws of the prosecuting Government for its own citizens and to the following guarantees and rights to the extent that they are not provided by that constitution and those laws:

- (a) To a prompt and speedy trial;
- (b) To be tried only in a court presided over by a qualified judge trained in the law;
- (c) To be informed, in advance of trial, of the specific charge or charges made against such person;
- (d) To be confronted with and permitted to cross-examine the witnesses against such person;
- (e) To have compulsory process for obtaining witnesses in favor, of such person, if the witnesses are within the jurisdiction of the court;
- (f) To have legal representation of such person's own choice for such person's defense throughout all investigative and judicial phases of the entire proceedings or, at such person's election, to have legal representation appointed by the court at no cost to such person under the same terms and conditions applicable to citizens of the Federated States of Micronesia;
- (g) To have the services of a competent interpreter, if such person considers it necessary;

(h) To communicate with a representative of the Government of the United States and to have such a representative present at trial and at all stages of the proceedings, including pretrial hearings and examinations and appeals;

(i) Not to be charged with a criminal offense on account of any act or omission which did not constitute a criminal offense under the statutory law of the prosecuting Government at the time it was committed or be subjected to punishment more severe or a procedure less favorable than the one applicable at the time the offense was committed;

(j) To be present at trial which shall be public;

(k) To have the burden of proof placed upon the prosecution;

(l) To be protected from the use of a confession or other evidence obtained by unlawful or improper means;

(m) Not to be compelled to testify against or otherwise incriminate himself or herself;

(n) Not to be required to stand trial while physically or mentally unfit to stand trial and participate in his or her defense;

(o) Not to be tried or punished more than once for the same offense, nor to be subject to greater punishment after appeal than was adjudged initially by the court of first instance;

(p) To have the right to appeal a conviction or sentence;

(q) Not to be subject to an appeal by the prosecution from an acquittal, or a finding of not guilty;

(r) To have credited to any sentence of confinement any related period of pretrial confinement in a confinement facility of the Government of the United States or the Government of the Federated States of Micronesia; and

(s) Not to be subject to the application of martial law or trial by military courts or special tribunals.

10. United States personnel who have been tried in courts of the Government of the Federated States of Micronesia, and who have been convicted and are serving sentences in confinement facilities of such Government or United States personnel in pretrial custody of such Government, shall be entitled to receive visits not less than monthly from members of their families and from representatives of the Government of the United

States. Health and comfort items including clothing, medicine and food may be delivered to and used by such United States personnel in confinement or pretrial custody.

11. *Facilities of the Government of the Federated States of Micronesia used for confinement or detention of United States personnel shall meet standards agreed upon by the Government of the United States and the Government of the Federated States of Micronesia.*

12. United States personnel convicted by courts of the Government of the Federated States of Micronesia shall not be subject to the death penalty, nor to any form of cruel or unusual punishment.

13. This Article is without prejudice to the authority of the Government of the United States to exercise administrative authority over United States personnel.

14. The Government of the United States and the Government of the Federated States of Micronesia confirm that United States personnel may not be surrendered to, or otherwise transferred to, the custody of an international tribunal or any other entity or state without the express written consent of the Government of the United States.